

CIVIL, APPEAL, CLOSED

**U.S. District Court
Eastern District of California – Live System (Sacramento)
CIVIL DOCKET FOR CASE #: 2:12-cv-00093-GEB-CKD**

Fair Political Practices Commission v. United States Postal Service

Assigned to: Judge Garland E. Burrell, Jr

Referred to: Magistrate Judge Carolyn K. Delaney

Case in other court: USCA, 12-16165

Cause: 05:552 Freedom of Information Act

Date Filed: 01/12/2012

Date Terminated: 10/16/2012

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: Federal Question

Plaintiff

Fair Political Practices Commission
An Agency of the State of California

represented by **Gary Scott Winuk**
California Fair Political Practices Commission
428 J Street
Suite 620
Sacramento, CA 95814
916-322-8029
Email: gwinuk@fppc.ca.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Zackery Paul Morazzini
California Fair Political Practices Commission
428 J Street
Suite 620
Sacramento, CA 95814
(916) 327-8691
Fax: (916) 327-2026
Email: zmorazzini@fppc.ca.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Heather M. Rowan
Fair Political Practices Commission
428 J Street
Suite 800
Sacramento, CA 95814
916-322-5660
Fax: 916-327-2026
Email: hrowan@fppc.ca.gov
ATTORNEY TO BE NOTICED

V.

Defendant

United States Postal Service

represented by **Benjamin Leon Berwick , GOVT**
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530
202-305-8573
Fax: 202-616-8470
Email: benjamin.l.berwick@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant**William Eisen**

represented by **William Eisen**
 2785 Pacific Coast Hwy
 Ste. E-186
 Torrance, CA 90505
 310-546-2085
 PRO SE

Date Filed	#	Docket Text
01/12/2012	<u>1</u>	COMPLAINT against United States Postal Service by Fair Political Practices Commission. Attorney Rowan, Heather M added.(Rowan, Heather) (Entered: 01/12/2012)
01/12/2012	<u>2</u>	CIVIL COVER SHEET by Fair Political Practices Commission (Rowan, Heather) (Entered: 01/12/2012)
01/12/2012		RECEIPT number #CAE200041429 \$350.00 fbo Fair Political Practices Commission by Heather M. Rowan on 1/12/2012. (Mena-Sanchez, L) (Entered: 01/12/2012)
01/12/2012	<u>4</u>	SUMMONS ISSUED as to *United States Postal Service* with answer to complaint due within *30* days. Attorney *Heather M. Rowan* *Fair Political Practices Commission* *428 J Street, Suite 800* *Sacramento, CA 95814*. (Mena-Sanchez, L) (Entered: 01/12/2012)
01/12/2012	<u>5</u>	CIVIL NEW CASE DOCUMENTS ISSUED; Initial Scheduling Conference is SET for 4/23/2012 at 09:00 AM in Courtroom 10 (GEB) before Judge Garland E. Burrell Jr. (Attachments: # <u>1</u> Consent to Magistrate Judge, # <u>2</u> VDRP) (Mena-Sanchez, L) (Entered: 01/12/2012)
02/02/2012	<u>6</u>	MOTION to INTERVENE by non-party William Eisen. (Benson, A.) (Entered: 02/03/2012)
02/02/2012	<u>8</u>	ANSWER to <u>1</u> Complaint by non-party William Eisen.(Benson, A.) (Entered: 02/03/2012)
02/03/2012	<u>7</u>	MINUTE ORDER: The Motion to Intervene, filed on 2/3/12, was not noticed for a hearing. Pursuant to the Local Rules, motions must be noticed for hearing on one of Judge Burrell's available law and motion hearing dates. re <u>6</u> Motion to Intervene Ordered by Judge Garland E. Burrell, Jr on 2/3/12. (Furstenau, S) (Entered: 02/03/2012)
02/03/2012		SERVICE BY MAIL: #7 Minute Order served on William Eisen. (Benson, A.) (Entered: 02/03/2012)
02/07/2012	<u>9</u>	SUMMONS RETURNED EXECUTED by Fair Political Practices Commission. United States Postal Service served on 1/19/2012, answer due 3/19/2012. (Attachments: # <u>1</u> Proof of Service Signed deliver confirmations)(Rowan, Heather) (Entered: 02/07/2012)
02/13/2012	<u>10</u>	MOTION to INTERVENE and to file the attached answer by William Eisen. Motion Hearing SET for 4/2/2012 at 9:00 AM in Courtroom 10 (GEB) before Judge Garland E. Burrell Jr.. (Michel, G) (Entered: 02/14/2012)
02/21/2012	<u>11</u>	NOTICE of APPEARANCE by Benjamin Leon Berwick, GOVT on behalf of United States Postal Service. Attorney Berwick, Benjamin Leon added. (Berwick, Benjamin) (Entered: 02/21/2012)
02/21/2012	<u>12</u>	ANSWER to <u>1</u> Complaint by United States Postal Service.(Berwick, Benjamin) (Entered: 02/21/2012)
03/19/2012	<u>13</u>	STATEMENT of NON-OPPOSITION by United States Postal Service to <u>10</u> Motion to Intervene. (Berwick, Benjamin) Modified on 3/20/2012 (Marciel, M). (Entered: 03/19/2012)

03/19/2012	<u>14</u>	OPPOSITION by Fair Political Practices Commission to <u>10</u> Motion to Intervene. (Rowan, Heather) Modified on 3/20/2012 (Marciel, M). (Entered: 03/19/2012)
03/23/2012	<u>15</u>	REPLY to <u>14</u> Opposition to <u>10</u> Motion to Intervene by William Eisen. (Michel, G) (Entered: 03/26/2012)
03/27/2012	<u>16</u>	MINUTE ORDER: The Motion to Intervene, scheduled for hearing on 4/2/12, is submitted without oral argument. There will not be a hearing on 4/2/12, and no appearance is necessary. re <u>10</u> Motion to Intervene, Ordered by Judge Garland E. Burrell, Jr on 03/27/2012. (Dankof, E) (Entered: 03/27/2012)
03/28/2012		SERVICE BY MAIL: 16 Minute Order, served on William Eisen. (Furstenau, S) (Entered: 03/28/2012)
03/29/2012	<u>17</u>	DECLINE to PROCEED BEFORE US MAGISTRATE JUDGE by William Eisen. (Michel, G) (Entered: 03/30/2012)
04/05/2012	<u>18</u>	OBJECTIONS by Intervenor Defendant William Eisen to 16 Minute Order. (Zignago, K.) (Entered: 04/06/2012)
04/09/2012	<u>19</u>	JOINT STATUS REPORT by United States Postal Service. (Berwick, Benjamin) (Entered: 04/09/2012)
04/12/2012	<u>20</u>	MINUTE ORDER: The pretrial scheduling conference, currently set for 4/23/12, is rescheduled for 6/11/12, at 9:00 a.m. A joint status report shall be filed fourteen days prior to the hearing. Ordered by Judge Garland E. Burrell, Jr on 4/12/12. (Furstenau, S) (Entered: 04/12/2012)
04/26/2012	<u>21</u>	ORDER signed by Judge Garland E. Burrell, Jr. on 4/26/2012 ORDERING that Eisen's <u>10</u> Motion to Intervene is DENIED. (Zignago, K.) (Entered: 04/26/2012)
04/26/2012		SERVICE BY MAIL: <u>21</u> Order served on William Eisen. (Zignago, K.) (Entered: 04/26/2012)
05/11/2012	<u>22</u>	NOTICE of INTERLOCUTORY APPEAL by William Eisen as to <u>21</u> Order on Motion to Intervene. (Manzer, C) (Entered: 05/14/2012)
05/14/2012	<u>23</u>	APPEAL PROCESSED to Ninth Circuit re <u>22</u> Notice of Interlocutory Appeal filed by William Eisen. Filed dates for Notice of Appeal *5/11/2012*, Complaint *1/12/2012* and Appealed Order / Judgment *4/26/2012*. ** *Fee Status: Not Paid – Billed* *William Eisen* (Attachments: # <u>1</u> Appeal Information, # <u>2</u> Bill for Appeal Fee) (Manzer, C) (Entered: 05/14/2012)
05/14/2012		SERVICE BY MAIL: <u>23</u> Appeal Processed to USCA served on William Eisen. (Manzer, C) (Entered: 05/14/2012)
05/21/2012		RECEIPT number #CAE200044647 \$455.00 fbo William Eisen by Bill Eisen on 5/21/2012 re: Appeal <u>22</u> . (Mena-Sanchez, L) (Entered: 05/21/2012)
05/23/2012	<u>24</u>	JOINT STATUS REPORT by United States Postal Service. (Berwick, Benjamin) (Entered: 05/23/2012)
05/29/2012	<u>25</u>	USCA CASE NUMBER 12–16165 for <u>22</u> Notice of Interlocutory Appeal filed by William Eisen. (Zignago, K.) (Entered: 05/29/2012)
06/01/2012	<u>28</u>	STATEMENT of Issues on Appeal; Designation of Reporter's Transcript on Appeal by Intervenor Defendant William Eisen. (Meuleman, A) (Entered: 06/05/2012)
06/05/2012	<u>26</u>	STATUS (PRETRIAL SCHEDULING) ORDER signed by Judge Garland E. Burrell, Jr., on 6/5/12 ORDERING that the status (pretrial scheduling) conference set for 6/11/2012, is VACATED. Defendant's Motion for Summary Judgment shall be filed on or before 7/2/2012; Plaintiff's Opposition and Cross-Motion for Summary Judgment shall be filed on or before 8/14/2012; Defendant's Opposition and Reply shall be filed on or before 9/7/2012 ; Plaintiff's Reply shall be filed on or before 9/24/2012; and The hearing on the motions shall be noticed for 10/9/2012, at 9:00 a.m.. (Kastilahn, A) (Entered: 06/05/2012)
06/05/2012		SERVICE BY MAIL: <u>26</u> Order served on William Eisen. (Kastilahn, A) (Entered: 06/05/2012)

06/05/2012	<u>27</u>	MINUTE ORDER: A status conference is scheduled for 3/18/13, at 9:00 a.m. A joint status report shall be filed fourteen days prior to the hearing. Ordered by Judge Garland E. Burrell, Jr on 6/5/12. (Furstenau, S) (Entered: 06/05/2012)
07/02/2012	<u>29</u>	MOTION for SUMMARY JUDGMENT by United States Postal Service. Motion Hearing set for 10/9/2012 at 09:00 AM in Courtroom 10 (GEB) before Judge Garland E. Burrell Jr. (Attachments: # <u>1</u> Memorandum, # <u>2</u> Statement, # <u>3</u> Declaration)(Berwick, Benjamin) Modified on 7/3/2012 (Becknal, R). (Entered: 07/02/2012)
08/14/2012	<u>30</u>	CROSS-MOTION for SUMMARY JUDGMENT by Fair Political Practices Commission. Motion Hearing set for 10/9/2012 at 09:00 AM in Courtroom 10 (GEB) before Judge Garland E. Burrell Jr.. (Rowan, Heather) Modified on 9/11/2012 (Kastilahn, A). (Entered: 08/14/2012)
08/14/2012	<u>31</u>	DECLARATION of Zachary Norton in SUPPORT OF <u>30</u> MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Exhibit Exhibits 1-3)(Rowan, Heather) (Entered: 08/14/2012)
08/14/2012	<u>32</u>	NOTICE re: <u>30</u> MOTION for SUMMARY JUDGMENT by Fair Political Practices Commission. (Attachments: # <u>1</u> Statement Response to Statement of Undisputed Facts, # <u>2</u> Statement Plaintiffs Statement of Undisputed Facts)(Rowan, Heather) Modified docket text and termed duplicate motion on 8/15/2012 (Waggoner, D). (Entered: 08/14/2012)
09/07/2012	<u>33</u>	OPPOSITION by United States Postal Service to <u>30</u> CROSS- MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Response to Plaintiff's Statement of Undisputed Facts, # <u>2</u> Supplemental Declaration of Alexander Wood)(Berwick, Benjamin) Modified on 9/11/2012 (Kastilahn, A). (Entered: 09/07/2012)
09/07/2012	<u>34</u>	REPLY by United States Postal Service to RESPONSE to <u>29</u> Motion for Summary Judgment. (Attachments: # <u>1</u> Supplemental Declaration of Alexander Wood)(Berwick, Benjamin) Modified on 9/11/2012 (Kastilahn, A). (Entered: 09/07/2012)
09/24/2012	<u>35</u>	Plaintiff's REPLY in SUPPORT of Cross-Motion for Summary Judgment [33. (Rowan, Heather) Modified on 9/25/2012 (Mena-Sanchez, L). (Entered: 09/24/2012)
10/09/2012	<u>36</u>	MINUTES (Text Only) for proceedings held before Judge Garland E. Burrell, Jr: MOTION HEARING held on 10/9/2012 re <u>30</u> MOTION for SUMMARY JUDGMENT filed by Fair Political Practices Commission, <u>29</u> Motion for Summary Judgment filed by United States Postal Service. Motions submitted. Plaintiffs Counsel Zachery Morazzini, Jack Woodside, Heather Rowan, Gary Winuk present. Defendants Counsel Benjamin Berwick present. Court Reporter/CD Number: Kimberly Bennett. (Furstenau, S) (Entered: 10/09/2012)
10/16/2012	<u>37</u>	ORDER signed by Judge Garland E. Burrell, Jr. on 10/15/12 ORDERING that USPS's <u>29</u> Motion for Summary Judgment is DENIED, and the FPPC's <u>30</u> Cross Motion for Summary Judgment is GRANTED as follows: the USPS shall provide the FPPC with the requested information, namely, the number of pieces of mail sent on October 9th, 10th, and 22nd in 2008 using Permit No. 2058, within twenty (20) days of the date on which this Order is filed. Judgment shall be entered in favor of the Plaintiff. CASE CLOSED (Benson, A.) (Entered: 10/16/2012)
10/16/2012	<u>38</u>	JUDGMENT dated *10/16/12* in favor of plaintiff pursuant to order signed by Judge Garland E. Burrell, Jr. on 10/15/12. (Benson, A.) (Entered: 10/16/2012)
10/16/2012		SERVICE BY MAIL: <u>37</u> Order and <u>38</u> Judgment served on William Eisen. (Benson, A.) (Entered: 10/16/2012)